

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 21 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JESUS ANTONIO IBARRA-MONROY,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-71439

Agency No. A18-514-414

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 20, 2008**

Before: PREGERSON, TASHIMA, and GOULD, Circuit Judges.

Jesus Antonio Ibarra-Monroy, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reconsider. Our jurisdiction is governed by 8 U.S.C. § 1252. *Fernandez-Ruiz v.*

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Gonzales, 468 F.3d 1159, 1163 (9th Cir. 2006). We dismiss the petition for review in part and deny it in part.

Ibarra-Monroy's petition for review is timely only with respect to the BIA's February 23, 2006 order. We therefore lack jurisdiction to review Ibarra-Monroy's contentions concerning the two BIA orders from which he did not petition for review. *See* 8 U.S.C. § 1252(b)(1); *Singh v. INS*, 315 F.3d 1186, 1188 (9th Cir. 2003) (the 30-day petition for review deadline is "mandatory and jurisdictional").

To the extent Ibarra-Monroy contends that the BIA should have addressed his motion to reconsider on the merits because his prior motion sought reopening, we disagree. The BIA acted within its discretion in construing Ibarra-Monroy's first motion as a motion to reconsider, because that motion did not contain "a proffer of material evidence," as is required for motions to reopen. *See Iturribarria v. INS*, 321 F.3d 889, 895-96 (9th Cir. 2003).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.